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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,563	09/30/2003	John E. Hoffmann	2479.2180-001	9987
21005	7590	05/31/2006	EXAMINER	
HAMILTON, BROOK, SMITH & REYNOLDS, P.C.			TRAN, CHUC	
530 VIRGINIA ROAD			ART UNIT	
P.O. BOX 9133			PAPER NUMBER	
CONCORD, MA 01742-9133			2821	

DATE MAILED: 05/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

H.A

Office Action Summary

Application No.

10/675,563

Applicant(s)

HOFFMANN ET AL.

Examiner

Chuc D. Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-17 and 19-27 is/are rejected.
- 7) ☒ Claim(s) 5 and 8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


TAN HO
PRIMARY EXAMINER

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/21/04;08/29/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed March 16, 2006 have been fully considered but they are not persuasive.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-4, 6-17 and 19-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Proctor, Jr. (US 2003/0048770).

The applied reference has a common Tantivy Communications, Inc. with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was

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derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Regarding claims 1, 14 and 27, Proctor, Jr. disclose an apparatus and method for operating a directional antenna in a Wireless Local Area Network (WLAN) in Fig. 1 comprising:

- SME that causes a Medium Access Control (MAC) layer to provide metrics associated with respective beam angles of the directional antenna (Page 3, Col. 1, Line 27) (Abstract); and
- an antenna control unit (30) coupled to the directional antenna (20) that receives input based on the metrics from the SME (Page 2, Col 2, Line 51), steering the directional antenna to a selected direction associated with an Access Point (AP) (Page 3, Col. 1, Line 24).

Regarding claims 2 and 15, Proctor, Jr. disclose that causing the MAC layer to determine the metrics as a function of received energy by the directional antenna in the beam angles (Page 2, Col. 1, Line 59).

Regarding claims 3 and 16, Proctor, Jr. disclose that causing the MAC layer to transmit a signal to at least one access point and to measure a response from said at least one access point (Page 3, Col. 1, Line 15).

Regarding claims 4 and 17, Proctor, Jr. disclose that the metrics includes receiving a table (25) (Fig. 1) of previously calculated metrics from the MAC layer (Page 3, Col. 1, Line 25).

Regarding claims 6 and 19, Proctor, Jr. disclose that a distribution system (18) (Fig. 1) coupled to the access point (14) (Fig. 1).

Regarding claims 7 and 20, Proctor, Jr. disclose that the metrics occurs before or after associating with the distribution system (18) (Page 2, Col. 1, Line 61).

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Regarding claims 8 and 21, Proctor, Jr. al disclose that the beam angle of the directional antenna with causing the MAC layer to provide the metrics (Page 2, Col. 1, Line 59).

Regarding claims 9 and 22, Proctor, Jr. disclose that the beam angle includes an omni-directional beam angle (Abstract).

Regarding claims 10 and 23, Proctor, Jr. disclose that the metrics correspond to beam angles relative to one access point (Page 2, Col. 2, Line 11).

Regarding claims 11 and 24, Proctor, Jr. disclose that the metrics correspond to beam angles relative to multiple access points (Fig. 1).

Regarding claims 12 and 25, Proctor, Jr. disclose that the metric includes RSSI (Page 3, Col. 1, Line 33).

Regarding claims 13 and 26, Proctor, Jr. disclose that used in an 802.11, 802.11 a, 802.11 b, or 802.11 g network (Page 3, Col. 1, Line 38).

Allowable Subject Matter

4. Claims 5 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. The following is a statement of reasons for the indication of allowable subject matter:

Prior art fails to disclose or fairly suggest: the metrics includes causing the MAC layer to calculate the metrics as a function of a beacon signal, in combination with the remaining claimed limitations as claimed in claims 5 and 18.

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Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chuc D. Tran whose telephone number is (571) 272-1829. The examiner can normally be reached on M-F Flex hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Wong can be reached on (571) 272-1834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TC
May 30, 2006

Tan Ho
TAN HO
PRIMARY EXAMINER